NO. 88-965

DEC 21 1988
JOSEPH F. SPANIOL, JR.
CLERK

In the
Supreme Court of the United States

OCTOBER TERM, 1988

LEIGHTON EWELL, ROSA McMILLAN, BETTY CRAIG AND DOLESE CONCRETE COMPANY,
Petitioners,

V.

HONORABLE HERBERT W. THOMPSON, COMMISSIONER OF CONSERVATION AND ASSISTANT SECRETARY, OFFICE OF CONSERVATION OF THE STATE OF LOUISIANA, ET AL.,
Respondent.

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR CERTIORARI TO THE SUPREME COURT OF LOUISIANA

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December ____, 1988

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SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF LOUISIANA

On December 8, 1988, Leighton Ewell, Rosa McMillan, Betty Craig and Dolese Concrete Company filed a Petition for a Writ of Certiorari to the Supreme Court of Louisiana. The petition seeks relief from judgment of the Supreme Court of Louisiana dated May 20, 1988, which

granted respondents'[1] application for writ of certiorari to review the decision of the Court of Appeal for the First Circuit, State of Louisiana, summarily reversed the judgment of the Court of Appeal and reinstated the judgment of the district court. The Supreme Court of Louisiana offered no explanation for its summary reversal.

Petitioners filed an application for rehearing which was based in part on the Supreme Court's lack of written reasons for its reversal of the judgment of the Court of Appeal. The application for rehearing was denied on September 9, 1988.

On December 5, 1988, petitioners filed a motion for certificate as to the existence of a federal question in the Supreme Court of Louisiana to establish whether or not 1) the Supreme Court of Louisiana concluded that petitioners' appeal to the Court of Appeal, First Circuit was moot; and 2) in the course of denying petitioners' application for rehearing, the Supreme Court of Louisiana considered and rejected the contention that issuance of Order No. 1047-B violated petitioners' rights under the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

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[1] Respondents are the defendant below, The Honorable Herbert W. Thompson, Commissioner of Conservation and Assistant Secretary, Office of Conservation for the State of Louisiana; and the intervenors below, who intervened on the side of the defendant: (1) Celeron Oil & Gas Company; (2) First Energy Corporation; (3) Union Texas Petroleum; (4) Terra Resources, Inc.; (5) Borden, Inc.; and (6) TXO Production Corporation.

In accordance with Rule 22:6 and petitioners' "continuing duty to inform the Court of any development which may conceivably affect the outcome"[2] of the case, petitioners hereby advise the Court that the Supreme Court of Louisiana has denied petitioners' motion for certificate as to the existence of a federal question on December 9, 1988. *See* Appendix A.

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[2] *Board of License Commissioners of Town of Tiverton v. Pastore*, 469 U.S. 239, 240 (1985); *Fasari v. Steinberg*, 419 U.S. 379, 391 (1975) (Burger, C.J., concurring).

APPENDIX A

Supreme Court
STATE OF LOUISIANA
New Orleans

CHIEF JUSTICE
JOHN A. DIXON, JR.
ASSOCIATE JUSTICES
PASCAL F. CALOGERO, JR.
WALTER F. MARCUS, JR.
JAMES L. DENNIS 301 LOYOLA AVE., 70112
JACK CROZIER WATSON
HARRY T. LEMMON TELEPHONE 504-568-5707
LUTHER F. COLE
CLERK OF COURT
FRANS J. LABRANCHE, JR.

December 9, 1988

Robert L. Redfearn, Esq.
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& REDFEARN
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New Orleans, La. 70163

In Re: Kaiser Aluminum Exploration Company, Inc. et al vs. The Honorable Herbert W. Thompson et al
No. 88-C-1036

Dear Mr. Redfearn:

This is to advise that the Court has denied the Plaintiffs-Respondents' Motion For Certificate As To Existence of A Federal Question filed in the above entitled matter.

With kindest regards, I remain,

Very truly yours,

/s/ Frans J. Labranche, Jr.

Frans J. Labranche, Jr.
Clerk of Court

FJLJr rd
ccs: Veil D. DeVillier, Esq.
H. H. Hillyer, Jr. Esq.
Lawrence E. Donohoe, Jr. Esq.